AF

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	**Arindam Das-PURKAYASTHA et al.**	Examiner:	Longbit CHAI
Serial No.:	**09/931,526**	Art Unit:	2131
Filed:	August 16, 2001	Our Ref:	618998-3 30006636-3 US
For:	"APPARATUS AND METHOD FOR ESTABLISHING TRUST"	Date:	July 13, 2007
		Re:	***Appeal to the Board of Appeals***

REPLY TO EXAMINER'S ANSWER TO BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the non-Final rejection dated August 15, 2006, for the above identified patent application. Appellants submit this timely Reply to the Examiner's Answer mailed on May 15, 2007, pursuant to 37 C.F.R. 41.41 and in compliance with the requirements of 37 C.F.R. 41.37(c).

REAL PARTY IN INTEREST

The real party in interest to the present application is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

STATUS OF CLAIMS

Claims 1 - 61 are the subject of this Appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Issue 1: Whether claims 1-9, 11-19, 24-26, 28-37, 40, 42-55 and 58 are patentable under 35 U.S.C. 102(e) over U.S. Pat. No. 6,678,833 to Grawrock (hereinafter "Grawrock").

Issue 2: Whether claims 10, 27 and 45 are patentable under 35 U.S.C. 103(a) over Grawrock in view of U.S. Pat. No. 6,209,099 to Saunders (hereinafter "Saunders").

Issue 3: Whether claims 20, 21, 38, 39, 41, 56, 57 and 59 are patentable under 35 U.S.C. 103(a) over Grawrock in view of U.S. Pat. No. 6,615,264 to Stoltz (hereinafter "Stoltz").

Issue 4: Whether claims 22-23 and 60-61 are patentable under 35 U.S.C. 103(a) over Grawrock.

THE ARGUMENT

Issue 1: Whether claims 1-9, 11-19, 24-26, 28-37, 40, 42-55 and 58 are patentable under 35 U.S.C. 102(e) over U.S. Pat. No. 6,678,833 to Grawrock (hereinafter "Grawrock").

In section 10(a) of the Examiner's Answer, the Examiner changes his mind yet again and now offers a third interpretation of Grawrock in which he no longer asserts that the presently claimed integrity metric is anticipated by Grawrock's hash operation nor Grawrock's software modules, but now alleges that it is a hash operation *performed on* these software modules that anticipates Appellants' integrity metric, because the hash operation produces identifiers "for later use in verification by a challenger." This much is disclosed in Grawrock; the rest, however, is pure Examiner's fancy, as the Examiner goes on to assert that such identifiers "is used for authentication purpose in verification by a challenger to assure the integrity of a computer entity." In keeping with the scope and intent of a Reply Brief, Appellants will only point out at this junction that the Examiner (yet again) offers **nothing** in Grawrock that supports this assertion. As a matter of fact, the very word "integrity" cannot be found even once in Grawrock. As for the asserted "verification by a challenger," the only such verification discussed in Grawrock is directed to verification of a platform's boot process. A hash value of a boot process is not the same as the claimed integrity metric having values for a *plurality of characteristics* associated with the computer entity.

The Examiner further insists in section 10(b) that the binary, trusted or un-trusted, status determined by Grawrock anticipates the presently claimed "plurality of trust levels" and offers an assortment of dubious logic to shore up this assertion. First, the Examiner proclaims that "a plurality of trust levels must include the un-trusted level; otherwise, the system does not work, according to the disclosure of the specification." This statement is patently false, and Appellants would be glad to prove why this is so as soon as the Examiner points out the specific portion of the specification where he has unearthed this alleged disclosure. Next, the Examiner "notes that Appellants also admit there is a second trust level, which is an un-trusted level" in the Brief at "Page 7, 1st para, Last sentence." This sentence is reproduced below, and Appellants submit that it speaks for itself:

> These are not mere semantic differences – the ability to assign one of a plurality of trust levels offers a much more flexible operating environment wherein various application programs can access various types of data depending on the trust level assigned to the computer entity in response to each user's challenge; there is no such flexibility afforded by the system of Grawrock, which merely *informs* a user whether the platform is trusted or not.

Where in the above does the Examiner imagine to find an admission that a plurality of trust levels is satisfied by a trusted level and an un-trusted level?

The Examiner is apparently further compelled to note that the above argument "has no merit since the alleged limitation has not been recited into the claim." The "alleged limitation" is alleged indeed as Appellants clearly only intended the above statement to further aid the Examiner in understanding the differences between the art and the invention by pointing out the practical advantages conferred by the invention, and not by the prior art.

In section 10(c) the Examiner further insists that "determining" *is* the same as "assigning" and once again imagines that Appellants admit to this by the very same statement from the Brief and reproduced above, namely "the system of Grawrock, which merely *informs* a user whether the platform is trusted or not" - reasoning that because the determination is not carried out in a human mind, "determining whether a platform is trusted or not is indeed assigning a trust level of a computer entity." Indeed it isn't - because of what Grawrock does with that determination, namely simply informing a user whether it's thumbs up or down, whether the platform is trusted or not. What specific act, as clearly and unequivocally taught by Grawrock, does the Examiner point to as being akin to assigning a trust level to a computer platform? The trust level of the invention is assigned to a platform by a trusted component and thus becomes an immutable characteristic associated with that platform, and the operation of the platform (at least to the level of interaction with other platforms) is affected by the assigned trust level - the platform of Grawrock has no such characteristic associated with it and the platform is not changed or affected in the slightest regardless of whether the determination results in a trusted or an untrusted decision.

While on the topic of a trusted component, in section 10(d) the Examiner once again, and completely incorrectly, asserts that "a challenger that verifies and determines the trust level... based on the hash identifiers reported from the trusted device (TPM) can be interpreted as a trusted party that must have authentication values for comparing against the reported /calculated integrity metrics" and cites to the same portions of Grawrock that Appellants have already shown in their Brief to offer no support for the Examiner's contention. This time around, however, the Examiner further offers that "Besides, Examiner notes it absolutely makes no sense relying on an un-trusted party (i.e. a challenger) in verification... and determining that a computer entity is trustable." Appellants respectfully submit that the Examiner's particular and subjective view of what makes sense is not a part of the legal standard of patentability, and that other than the Examiner's common sense - as educated by having read Appellants' claims - there is still no support to be found in Grawrock for this contention.

Appellants have endeavored to keep their remarks brief and to the point and not to needlessly repeat arguments from their earlier Brief, which are incorporated herein in their entirety, including all arguments advanced with respect to Issues 2, 3 and 4.

Appellants thus respectfully contend that each claim is in fact novel and patentable, and reversal of all rejections and objections and re-opening of the prosecution is therefore respectfully solicited.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

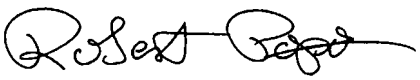
July 13, 2007
(Date of Transmission)

Alma Smalling
(Name of Person Transmitting)


(Signature)

7/13/07
(Date)

Respectfully submitted,



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